

# U.S. Customs Service

## *General Notices*

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, DC, December 12, 2001.*

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

JOHN DURANT,  
*(for Douglas M. Browning, Acting Assistant Commissioner,  
Office of Regulations and Rulings.)*

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### PROPOSED MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF CRIB BUMPERS AND PADDED HEADBOARDS

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed revocation of a tariff classification ruling letter and treatment relating to the classification of a crib bumper and padded headboard.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs intends to modify New York (NY) Decision Letter E89383, relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a crib bumper and padded headboard. Similarly, Customs proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before January 25, 2002.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch,

1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beth Safeer, Textiles Branch: (202) 927-1342.

#### SUPPLEMENTARY INFORMATION:

##### BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to modify one ruling relating to the tariff classification of a crib bumper and padded headboard. Although in this notice Customs is specifically referring to the modification of New York (NY) decision NY E89383, dated November 23, 1999 (Attachment A), this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of

the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUSA. Any person involved with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

Customs previously classified crib bumpers and padded headboards under subheading 6307.90.9989, HTSUSA, which provides for other made up textile articles. NY E89383, dated November 23, 1999, classified a crib bumper and soft headboard in subheading 9403.90.8080, HTSUSA, which provides for "Other furniture and parts thereof: Parts: Other: Other: Other." Based on our analysis of the scope of the terms of the heading to 9403, HTSUSA, and 6307, HTSUSA, the Legal Notes, and the Explanatory Notes, the crib bumper and padded headboard of the type discussed herein, are classifiable in subheading 6307.90.9989, HTSUSA, which provides for "Other made up articles, including dress patterns: Other; Other: Other: Other: Other: Other."

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to modify NY E89383 and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed HQ 965149. (Attachment B) Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: December 7, 2001.

JOHN ELKINS,  
(for John Durant, Director,  
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
New York, NY, November 23, 1999.

CLA-2-63:RR:NC:TA:349 E89383  
Category: Classification  
Tariff No. 9404.90.8522, 6302.32.2040,  
6303.91.0000, and 9403.90.8080

MS. LEIGH SMITH  
US JHI CORPORATION  
8612 Fairway Place  
Middleton, WI 53562

Re: The tariff classification of a bumper pad, comforter, soft headboard, fitted sheet and bed skirt from China.

DEAR MS. SMITH:

In your letter dated October 27, 1999 you requested a classification ruling.

The instant samples, described as a "KT948 Farm Crib Set", consists of a bumper pad, comforter, soft headboard, fitted sheet and a bed skirt. One side of the bumper pad (KT948 BP) is made from 100 percent cotton woven fabric. This "farm checked" fabric is printed with a check pattern that incorporates sheep and clover in the design. The reverse side is made from 65 percent polyester and 35 percent cotton woven fabric. This side is solid yellow in color. It features tie strings used to attach the pad to the crib. It also has piping and a ruffle.

A sample of the comforter (KT948C) was not submitted. You indicate that the comforter is reversible. One side is made from the "farm checked" 100 percent cotton woven fabric and the other side from a 65 percent polyester and 35 percent cotton woven fabric. It is stuffed with a polyester filler. It will include piping. The comforter will measure 30 x 40 inches.

The soft headboard (KT948S) is dome shaped and has tie strings used to attach the item to the headboard of a crib. One side is made from the "farm checked" 100 percent cotton woven fabric and the other side from a 65 percent polyester and 35 percent cotton woven fabric. The top and side edges have a sewn in ruffle and piping. The front panel contains a sheep and clover embroidered and appliqued design.

The fitted sheet (KT948F) is made to fit crib-sized mattresses. You state that the production fabric will be a 65 percent polyester and 35 percent cotton woven fabric. It will be solid yellow in color. The fitted sheet has two sides that have been completely elasticized and two sides with hemmed edges.

The bed skirt (KT948B) is comprised of a platform section with a ruffle sewn along the edges. The platform section is made from 65 percent polyester and 35 percent cotton woven fabric. The ruffle or skirt is made from the "farm checked" 100 percent cotton woven fabric. You have indicated that all of these items may be imported as a set packed for retail sale or they may be imported individually packed.

The applicable subheading for the Farm Crib Set imported packed for retail sale will be 9404.90.8522, Harmonized Tariff Schedule of the United States (HTS), which provides for mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: other: other: other: quilts, eiderdowns, comforters and similar articles \* \* \* with outer shell of man-made fibers. The duty rate will be 13.6 percent ad valorem.

The applicable subheading for the bumper pad and the soft headboard will be 9403.90.8080, HTS, which provides for other furniture and parts thereof: parts: other: other, other: The rate of duty will be free.

The applicable subheading for the comforter will be 9404.90.8522, HTS, which provides for mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered: other: other: other: quilts, eiderdowns, comforters and similar articles \* \* \* with outer shell of man-made fibers. The duty rate will be 13.6 percent ad valorem.

The applicable subheading for the fitted sheet will be 6302.32.2040, HTS, which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen: of man-made fibers: other \* \* \* sheets: not napped. The duty rate will be 12.2 percent ad valorem.

The applicable subheading for the bed skirt will be 6303.91.0000, HTS, which provides for curtains (including drapes) and interior blinds; curtain or bed valances: other: of cotton. The duty rate will be 11 percent ad valorem.

Even when the "Farm Crib Set" is classified as a set, the individual components are subject to textile category numbers as if they were classified separately. The comforter and the fitted sheet fall within textile category designation 666. The bed skirt falls within category designation 369. Based upon international textile trade agreements products of China are subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the U.S. Customs Service Textile Status Report, an internal issuance of the U.S. Customs Service, which is available at the Customs Web site at [www.customs.gov](http://www.customs.gov). In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist John Hansen at 212-637-7078. If you have any questions regarding the bumper pad and soft headboard, contact National Import Specialist Larry Mushinske at 212-637-7061.

ROBERT B. SWIERUPSKI,  
*Director,*  
*National Commodity Specialist Division.*

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[ATTACHMENT B]

DEPARTMENT OF THE TREASURY  
U.S. CUSTOMS SERVICE,  
*Washington, DC.*

CLA-2 RR:CR:TE 965149 BAS  
Category: Classification  
Tariff No. 6307.90.9989

MS. LEIGH SMITH  
US JHI CORPORATION  
8612 Fairway Place  
Middleton, WI 53562

Re: Modification of NY E89383, November 23, 1999; Classification of bumper pad and soft padded headboard.

DEAR MS. SMITH:

This is in reference to New York Ruling Letter (NY) E89383 issued to you on November 23, 1999, in response to your letter of October 27, 1999 to the Director, Customs National Commodity Specialist Division in New York, on behalf of US JHI Corporation, requesting a ruling on the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a bumper pad, comforter, soft headboard, fitted sheet and bed skirt.

In NY E89383, dated November 23, 1999, a five piece bedding set imported packed, for retail sale was classified in subheading 9404.90.8522, HTSUS, which provides for mattress supports; articles of bedding and similar furnishing fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered. Appropriate classifications were provided for each item in the set should it be imported

separately. The bumper pad and soft headboard were classified in subheading 9403.90.8080, HTSUSA, which provides for other furniture and parts thereof. We have now had occasion to review that decision and found it to be in error insofar as the classification of the crib bumper and padded headboard is concerned.

*Facts:*

The merchandise under consideration consists of a bumper pad and a soft headboard for a crib.

One side of the bumper pad (KT948 BP) is made from 100 percent cotton woven fabric. This "farm checked" fabric is printed with a check pattern that incorporates sheep and clover in the design. The reverse side is made from 65 percent polyester and 35 percent cotton woven fabric. This side is solid yellow in color. It features tie strings used to attach the pad to the crib. It also has piping and a ruffle.

The soft headboard (KT948S) is dome shaped and has tie strings used to attach the item to the headboard of a crib. One side is made from the "farm checked" 100 percent cotton woven fabric and the other side from a 65 percent polyester and 35 percent cotton woven fabric. The top and side edges have a sewn in ruffle and piping. The front panel contains a sheep and clover embroidered and appliqued design.

The bumper pad and soft headboard were classified in subheading 9403.90.8080, HTSUSA, which provides for other furniture and parts thereof. This ruling letter only modifies NY E89383 insofar as it concerns the classifications of the bumper pad and soft headboard when imported separately.

*Issue:*

Whether the bumper pad and padded headboard are properly classifiable in heading 9403, HTSUSA, as other furniture and parts thereof or under heading 6307, HTSUSA, as other made-up textile articles?

*Law and Analysis:*

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The crib bumper pad and headboard are potentially classifiable in two HTSUSA headings. One possible heading is 9403, HTSUSA, which provides for other furniture and parts thereof. Heading 6307, HTSUSA, which provides for other made up textile articles, is the other potentially applicable heading for the articles in question.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

Heading 9403 includes "Other furniture and parts thereof." Note 4(A) of the General Explanatory Notes to Chapter 94 defines furniture as:

Any "movable" articles (**not included** under other more specific headings of the Nomenclature), which have the essential characteristic that they are constructed for placing on the floor or ground, and which are used, mainly with a utilitarian purpose to equip private dwellings, hotels, theatres, cinemas, offices, churches, schools, cafes, restaurants, laboratories, hospitals, dentists' surgeries, etc. or ships, aircraft, railway coaches, motor vehicles, caravan-trailers or similar means of transport. (It should be noted that, for the purposes of this Chapter, articles are considered to be "movable" furniture even if they are designed for bolting, etc. to the floor, e.g. chairs for use on ships). Similar articles (seats, chairs, etc.) for use in gardens, squares, promenades, etc. are also included in this category.

The instant crib bumper and padded headboard are not constructed for placing on the floor or ground and are not used mainly with a utilitarian purpose to equip private dwellings, hotels, etc. nor are they parts of a crib. The crib bumper and headboard rather, are placed in a crib and function primarily as a decorative accessory. Thus, the bumper and padded headboard clearly do not fit the definition of furniture as set forth in the EN to Chapter 94.

In *Bauerhin Technologies Limited Partnership v. U.S.*, 110 F.3d 774, 1997 U.S. App. LEXIS 6214, (CAFC 1997), the Court addressed the issue of whether or not a canopy designed to fit over a child automobile safety seat which was imported separately and sold as part of the seat to which it was attached was a “part” of the child safety seat for classification purposes. The Court held that because the canopy was dedicated for use with the car seat it was properly considered a “part” under the HTSUSA and therefore classifiable in subheading 9403.90.8080, HTSUSA, which provides for other furniture and parts thereof: parts; other: other, other.

Notably, in *Bauerhin* the canopies that were classified as parts of car seats were specially designed to fit over child automobile safety seats. [Emphasis added]. Although the canopies were imported separately from the seats with which they were to be used, they were sold as parts of the seats to which they were to be attached. In contrast, the crib bumper and padded headboard in the instant case are not sold as parts of the cribs to which they attach. The bumper and padded headboard are optional items and are sold separately as part of a five piece **bedding** set. [Emphasis added] While the canopy discussed in *Bauerhin* is designed to fit a particular car seat, the bumper pad and headboard could be used with any crib. Thus the *Bauerhin* rationale does not extend to the instant merchandise.

This office has followed *Bauerhin* in select cases where the merchandise was designed, marketed and sold to be attached to a particular piece of furniture or equipment. See HQ 962186, June 1, 1999 (Mosquito netting designed to fit over a specific “Pack-N-Play” model play pen classified in heading 9403). The crib bumper and padded headboard are not dedicated solely for use with a particular crib and are therefore not properly considered to be a part of the crib.

Heading 6307, HTSUSA, is a residual provision which provides for other made up articles of textiles. Section Note 7 (e) of Section XI, which covers textiles and textile articles states in pertinent part as follows:

7. For the purposes of this Section the expression “made up” means:

Assembled by sewing \* \* \*

The instant article has been assembled by sewing, therefore it constitutes a made up textile article. The Explanatory Notes state regarding Heading 6307:

This heading covers made up articles of any textile material which are **not included** more specifically in the heading of Section XI or elsewhere in the Nomenclature.

Since the padded headboard and crib bumper at issue are not covered by any more specific heading, they are classifiable in Heading 6307, HTSUSA.

Customs has consistently classified merchandise that is almost identical to the subject merchandise under heading 6307. See HQ 965008, August 28, 2001; HQ 961391, dated April 19, 1998; HQ 959347, dated July 18, 1996; NY G87894, dated March 26, 2001; NY G85992, January 11, 2001; NY 807912, dated May 29, 1995; NY 885602, May 10, 1993; NY 851101, dated April 25, 1990.

*Holding:*

The bumper pad and soft padded headboard made from 100 percent cotton woven fabric are properly classified in subheading 6307.90.9989, HTSUSA, which provides for “Other made up articles, including dress patterns; Other; Other: Other: Other: Other.” The general column one rate of duty is 7 percent *ad valorem*. There is no textile quota category applicable to this provision.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, the consignee should contact the local Customs office prior to importing the merchandise to determine the current applicability of any import restraints or requirements.

JOHN DURANT,  
Director,  
Commercial Rulings Division.

## PROPOSED REVOCATION OF RULING LETTERS RELATING TO TARIFF CLASSIFICATION OF FUTON COVERS

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed revocation of four tariff classification ruling letters and treatment relating to the classification of futon covers.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that Customs intends to revoke NY G87021, dated February 21, 2001; NY C81111, dated November 13, 1997; NY 805667, dated January 11, 1995; and NY 804095, dated November 23, 1994; relating to the tariff classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of futon covers. Similarly, Customs proposes to revoke any treatment previously accorded by it to substantially identical merchandise. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before January 25, 2002.

ADDRESS: Written comments are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beth Safeer, Textiles Branch: (202) 927-1342.

### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.



Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to revoke four rulings relating to the tariff classification of futon covers. Although in this notice Customs is specifically referring to the revocation of NY G87021, dated February 21, 2001 (Attachment A); NY C81111, dated November 13, 1997 (Attachment B); NY 805667, dated January 11, 1995 (Attachment C) and NY 804095, dated November 23, 1994 (Attachment D), relating to the tariff classification of futon covers under the Harmonized Tariff Schedule, this notice covers any rulings on this merchandise, which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing databases for rulings in addition to the ones identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUSA. Any person involved with substantially identical merchandise should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

Customs previously classified several futon covers under subheading 6302.31.9050, HTSUSA, which provides for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of cotton: Other: Not napped: Other." Customs also classified a futon cover made of 100 percent cotton woven fabric under subheading 6302.21.2090, HTSUSA, which provided for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen, printed: of cotton: Other: Other, Other" and a futon cover made from either 100 percent polyester or 50-50 cotton/polyester blended fabric under subheading 6302.22.2030, HTSUSA, which provided for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen, printed: Of man-made fibers: Other, Other." Based on our analysis as set forth in proposed HQ 965227, HQ 965228, HQ 965229, and HQ 964961, the futon covers are classifiable in heading 6304 HTSUSA, as other furnishing articles.

Pursuant to 19 U.S.C. 1625(c)(1), Customs intends to revoke NY G87021, dated February 21, 2001 by the issuance of proposed HQ

964961 (Attachment E); NY C81111, dated November 13, 1997 by the issuance of proposed HQ 965227 (Attachment F); NY 805667, dated January 11, 1995 by the issuance of proposed HQ 965229 (Attachment G); and NY 804095, dated November 23, 1994 by the issuance of proposed HQ 965228 (Attachment H) and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in the proposed foregoing identified rulings. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: December 11, 2001.

JOHN ELKINS,  
(for John Durant, Director,  
Commercial Rulings Division.)

[Attachments]

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[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*New York, NY, February 21, 2001.*  
CLA-2-63:RR:NC:TA:349 G87021  
Category: Classification  
Tariff No. 6302.31.9050

MR. ANIL MEHTA  
A.P. IMPORTS, INC.  
21001 Glenwold Drive  
Walnut, CA 91789

Re: The tariff classification of a futon mattress cover from India.

DEAR MR. MEHTA:

In your letter dated February 1, 2001 you requested a classification ruling.

The instant sample, referred to as a futon shell, is a futon mattress cover. This cover will be made from either 60 percent cotton and 40 percent polyester or 70 percent cotton and 30 percent polyester woven fabric. The cover will be imported in two sizes either 54 x 75 inches or 39 x 75 inches. Three edges of the cover are sewn the fourth has a zipper closure. The instant sample is black but the cover will also be imported in white, green and burgundy. The Explanatory Notes for heading 6302, Harmonized Tariff Schedule of the United States, specifically states that bed linen includes mattress covers.

The applicable subheading for the mattress cover will be 6302.31.9050, Harmonized Tariff Schedule of the United States (HTS), which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen: of cotton: other: not napped \* \* \* other. The duty rate will be 7 percent ad valorem.

The cover falls within textile category designation 362. Based upon international textile trade agreements products of India are subject to quota and the requirement of a visa.

The designated textile and apparel categories and their quota and visa status are the result of international agreements that are subject to frequent renegotiations and changes. To obtain the most current information, we suggest that you check, close to the time of shipment, the U.S. Customs Service Textile Status Report, an internal issuance of the U.S.

Customs Service, which is available at the Customs Web site at [www.customs.gov](http://www.customs.gov). In addition, the designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected and should also be verified at the time of shipment.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist John Hansen at 212-637-7078.

ROBERT B. SWIERUPSKI,

*Director,*

*National Commodity Specialist Division.*

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[ATTACHMENT B]

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE,

*New York, NY, November 13, 1997.*

CLA-2-63:RR:NC:TA:349 C81111

Category: Classification

Tariff No. 6302.31.9050

MR. MOHAMMAD TARIQ  
TAB INTERNATIONAL USA, INC.  
EMPIRE STATE BUILDING  
350 Fifth Avenue  
Suite 1526  
New York, NY 10118

Re: The tariff classification of a futon mattress cover from Pakistan.

DEAR MR. TARIQ:

In your letter dated October 28, 1997 you requested a classification ruling.

The instant sample, referred to as a futon shell, is a mattress cover. This cover is made from 55 percent cotton and 45 percent polyester woven fabric. The cover measures approximately 60 x 82 inches and will enclose a 6 inch thick futon mattress. Three edges of the cover are sewn the fourth has a zipper closure. The Explanatory Notes for heading 6302, Harmonized Tariff Schedule of the United States, (HTS), specifically states that bed linen includes mattress covers.

As requested the sample is being returned to you.

The applicable subheading for the mattress cover will be 6302.31.9050, Harmonized Tariff Schedule of the United States (HTS), which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen: of cotton: other: not napped \* \* \* other. The duty rate will be 7.3 percent ad valorem.

The mattress cover falls within textile category designation 362. Pursuant to a CITA directive, products in category 362 produced or manufactured in Pakistan and entered into the United States on or after September 9, 1997 will no longer require a visa.

To obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist John Hansen at 212-466-5854.

ROBERT B. SWIERUPSKI,

*Director,*

*National Commodity Specialist Division.*

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*New York, NY, January 11, 1995.*  
CLA-2-63:S:N:N6:349 805667  
Category: Classification  
Tariff No. 6302.31.9050

MS. SHERYL DESJARDINS  
EMERY CUSTOMS BROKERS  
1200 E. Northwest Hwy., #155  
Grapevine, TX 76051

Re: The tariff classification of a futon mattress cover from Taiwan.

DEAR MS. DESJARDINS:

In your letter dated January 4, 1995, on behalf of Harlee International you requested a classification ruling.

The submitted sample is a hunter green full size futon mattress cover. The cover will be made of 51 percent cotton and 49 percent polyester woven fabric. Please note that even a slight change in the fiber content may result in a change in classification as well as visa and quota requirements. The article contains two zippers beginning at one of the narrow ends of the cover, and continuing down three quarters the length of each long side. It measures approximately 54 x 75 inches and will enclose up to a 6 inch thick futon mattress. The Explanatory Notes, for heading 6302, Harmonized Tariff Schedule of the United States, (HTS), specifically states that bed linen includes mattress covers. As requested the sample is being returned.

The applicable subheading for the mattress cover will be 6302.31.9050, Harmonized Tariff Schedule of the United States (HTS), which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen: of cotton: other: not napped \* \* \* other. The duty rate will be 7.5 percent ad valorem.

The mattress cover falls within textile category designation 362. Based upon international textile trade agreements products of Taiwan are subject to quota and the requirement of a visa.

The designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,  
*Area Director,  
New York Seaport.*

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
New York, NY, November 23, 1994.  
CLA-2-63:S:N:N6:349 804095  
Category: Classification  
Tariff No. 6302.21.2090 and 6302.22.2030

MR. EDDY LIN  
IBS RESEARCH, INC.  
2700 E. Imperial Hwy., Bldg. G.  
Brea, CA 92621

Re: The tariff classification of futon mattress covers from China.

DEAR MR. LIN:

In your letter, received in this office on November 14, 1994, you requested a classification ruling.

The submitted sample, which you refer to as a sofa cover, is a printed cover for a full size futon mattress. The cover will be made from either a 100 percent cotton woven fabric, a 100 percent polyester woven fabric or a blended woven fabric composed of 50 percent cotton and 50 percent polyester. Please note that even a slight change in the fiber content of this 50-50 blended fabric may result in a change in classification as well as visa and quota requirements. A zippered opening extends around three sides of the cover. It measures approximately 54 x 75 inches and will enclose a 4 inch thick mattress. The Explanatory Notes for heading 6302, Harmonized Tariff Schedule of the United States, (HTS), specifically states that bed linen includes mattress covers.

The applicable subheading for the mattress covers made from the 100 percent cotton fabric will be 6302.21.2090, HTS, which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen, printed: of cotton: other: other: other. The duty rate will be 7.6 percent ad valorem.

The applicable subheading for the mattress covers made from either the 100 percent polyester or the 50-50 blended fabric will be 6302.22.2030, HTS, which provides for bed linen, table linen, toilet linen and kitchen linen: other bed linen, printed of man-made fibers: other: other. The duty rate will be 13 percent ad valorem.

The cotton covers fall within textile category designation 362, while the polyester and 50-50 blend covers fall within textile category 666. Based upon international textile trade agreements products of China are subject to quota and the requirement of a visa.

The designated textile and apparel categories may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the Status Report on Current Import Quotas (Restraint Levels), an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,  
Area Director,  
New York Seaport.

[ATTACHMENT E]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
Washington, DC.

CLA-2 RR:CR:TE 964961 BAS  
Category: Classification  
Tariff No. 6304.92.0000

ANIL MEHTA  
A.P. IMPORTS, INC.  
21001 Glenwold Drive  
Walnut, CA 91789

Re: Revocation of NY G87021, February 21, 2001; Classification of an unstuffed futon cover.

DEAR MR. MEHTA:

This is in reply to your letter, dated February 26, 2001, on behalf of A.P. Imports, Inc., requesting reconsideration of New York Ruling Letter (NY) G87021, dated February 21, 2001, concerning the classification of an unstuffed futon cover. You submitted a sample of the futon cover to assist us in our determination.

*Facts:*

The merchandise under consideration is an unstuffed futon cover. The cover will be made from either 60 percent cotton and 40 percent polyester or 70 percent cotton and 30 percent polyester woven fabric. It will be imported in two sizes either 54 x 75 inches or 39 x 75 inches. Three sides of the cover are sewn and the fourth has a zippered opening. The cover is sized to encase a 4.5-inch thick futon cushion. After importation the cover is filled with plastic foam and poly/cotton batting and zippered closed. The cushion is stitched through all layers (tufted) to hold the components together and prevent shifting. In NY G87021, the futon cover was classified in subheading 6302.31.9050, HTSUSA, which provides for bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of cotton: other: Not napped \* \* \* Other. You argue that the futon cover should be classified in subheading 9409.90.20 as part of a mattress.

*Issue:*

Whether the futon cover is properly classifiable in heading 9404, HTSUSA, as an article of bedding and similar furnishing fitted with springs or stuffed or internally fitted with any material; heading 6302, HTSUSA, as bed linen; or heading 6304, HTSUSA, as an other furnishing article.

*Law and Analysis:*

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The futon cover is potentially classifiable in the following three HTSUSA headings: heading 9404, HTSUSA, as an article of bedding or similar furnishing fitted with springs or stuffed or internally fitted with any material; heading 6304, HTSUSA, as an other furnishing article; or heading 6302, HTSUSA, as bed linen.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

*Heading 9404*

Heading 9404, HTSUSA, provides for "Mattress supports; articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or

plastics, whether or not covered.” The ENs to heading 9404, HTSUSA, in addition, state that the heading covers *inter alia* articles of bedding which are sprung or stuffed or internally fitted with any material (cotton, wool, horsehair, down, synthetic fibers, etc.) As this futon cover is not stuffed or fitted with any material, at the time of importation, it is precluded from classification in heading 9404, HTSUSA.

You assert that the merchandise at issue is a “shell” and therefore is part of the mattress. The item, although referred to as a shell, is a finished product, similar to a cushion cover, at the time of importation and therefore cannot be appropriately classified as part of a mattress. Heading 9404, HTSUSA, moreover, does not provide for parts. Since the instant futon cover as imported is a finished product, it would not be properly classifiable in heading 9404, HTSUSA.

Having precluded classification under heading 9404, HTSUSA, the next consideration is to determine under which heading of Chapter 63 the subject merchandise is classifiable. Under Chapter 63, the competing headings for the futon cover are heading 6304, HTSUSA, which provides for other textile furnishing articles, excluding those of heading 9404, HTSUSA, and heading 6302, HTSUSA, which provides for *inter alia*, bed linen.

#### Heading 6302

Heading 6302, HTSUSA, provides for *inter alia*, bed linen. The ENs for heading 6302, HTSUSA, state that bed linen includes, e.g. sheets, pillow cases, bolster cases, eiderdown cases and mattress covers.

A mattress cover is generally used to protect a mattress from dirt and add comfort for the sleeper. The instant futon cover may incidentally protect the futon cushion from dirt and provide additional comfort for the sleeper; yet it is significantly distinguishable from a traditional mattress cover which serves such a purpose. The instant futon cover is made of a very heavy fabric and is imported in white, burgundy, green and black. A typical mattress cover is white and made of a relatively thinner material. Unlike the subject merchandise, a typical mattress cover is generally not meant to be used for a decorative purpose. A visual examination of the subject merchandise reveals that it is clearly meant to be decorative, like a cushion cover, rather than used as a means to protect a mattress from dirt. In addition, the fact that the futon cover is imported in a variety of colors indicates that, while functional, it is likely to be used to enhance décor. Accordingly, the instant futon cover is not *esjudem generis* with the exemplars listed in the ENs to heading 6302, HTSUSA.

#### Heading 6304

Having precluded classification in Heading 6302, HTSUSA, we must now examine whether the futon cover is properly classified in Heading 6304, HTSUSA. Heading 6304, HTSUSA, provides for other furnishing articles, excluding those of heading 9404, HTSUSA.

The ENs to heading 6304 provide that the heading covers *inter alia* furnishing articles of textile materials including bedspreads, \* \* \* (but not including bed coverings of heading 9404), cushion covers and loose covers for furniture. The futon cover at issue is similar in function to a cushion cover. That is, it is sewn on three sides with one side open for the insertion of a cushion. The instant futon cover, moreover, conforms to the shape of the futon cushion as most cushion covers conform to the shape of the cushion covered. See HQ 951528, dated August 14, 1992; HQ 084324, dated July 20, 1989. Accordingly, the instant merchandise is *ejusdem generis* with the exemplars listed in the ENs to heading 6304 and is properly classified in heading 6304, HTSUSA.

This holding is consistent with other Customs rulings where slipcovers have been classified under heading 6304, HTSUSA. See HQ 084323, dated July 20, 1989; NY B84450, dated May 12, 1997. This holding is also consistent with rulings where other covers for seats have been classified under heading 6304. See HQ 951528, dated August 14, 1992 (cushion cover for an infant carseat is classified in heading 6304); HQ 085885, dated January 23, 1990 (infant car seat covers are more specifically provided for as “like” furniture slipcovers than as parts of cushions and are therefore properly classified in heading 6304, HTSUSA).

Having established that the proper heading for the futon cover is heading 6304 HTSUSA, classification must then be made at the appropriate subheading level. Note 2(A) to Section XI of the HTSUSA provides in pertinent part that, “Goods classifiable in Chapters 50 to 55 or in heading No. 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material.” Subheading Note 2(A) to Section XI

states that "Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of Chapters 50 to 55 consisting of the same textile materials." Accordingly, because the futon cover is composed of either 60% or 70% cotton, it is properly classifiable under subheading 6304.92.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton."

*Holding:*

The futon cover composed of either 60 percent cotton and 40 percent polyester or 70 percent cotton and 30 percent polyester fabric is properly classified in subheading 6304.92.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton." The general column one rate of duty is 6.6 percent *ad valorem*. The textile quota category applicable to this provision is 369.

The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest your client check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service which is updated weekly and is available for inspection at your local Customs office. The *Status Report on Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Service Website at [www.customs.gov](http://www.customs.gov).

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, your client should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

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[ATTACHMENT F]

DEPARTMENT OF THE TREASURY  
U.S. CUSTOMS SERVICE,  
*Washington, DC.*

CLA-2 RR:CR:TE 965227 BAS  
Category: Classification  
Tariff No. 6304.92.0000

MR. MOHAMMAD TARIQ  
TAB INTERNATIONAL USA, INC.  
EMPIRE STATE BUILDING  
350 Fifth Avenue  
Suite 1526  
New York, NY 10118

Re: Revocation NY C81111, November 13, 1997; Classification of a futon cover.

DEAR MR. TARIQ:

This is in reference to New York Ruling Letter (NY) C81111 issued to you on November 13, 1997, in response to your letter of October 28, 1997 to the Director, Customs National Commodity Specialist Division in New York, on behalf of Tab International USA requesting a ruling on the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a futon cover.

In NY C81111, a futon mattress cover from Pakistan was classified in subheading 6302.31.9050, HTSUSA, which provides for bed linen, table linen, toilet linen and kitchen



linen: other bed linen: of cotton: other: not napped \* \* \* other. We have now had occasion to review that decision and have found it to be in error.

*Facts:*

The merchandise under consideration is a futon mattress cover also referred to as a futon shell. The cover is made from 55 percent cotton and 45 percent polyester woven fabric. The cover measures approximately 60 x 82 inches and encloses a 6 inch thick futon mattress. Three edges of the cover are sewn and the fourth has a zipper closure.

*Issue:*

Whether the futon cover is properly classifiable in heading 9401, HTSUSA, as parts of seats; heading 6302, HTSUSA, as bed linen; or heading 6304, HTSUSA, as other furnishing articles.

*Law and Analysis:*

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The futon cover is potentially classifiable in the following three HTSUSA headings: heading 9401, HTSUSA, as parts of seats, heading 6302, HTSUSA, as bed linen, or heading 6304, HTSUSA, as an other furnishing article.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

*Heading 9401*

Heading 9401, HTSUSA, includes "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof." The ENs to heading 9401, HTSUSA, state that the heading covers *inter alia* couches, settees, sofas, ottomans and the like. Concerning parts, the ENs state that the heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not upholstered with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.

Backs, bottoms, arm-rests and spiral springs are all components of the seats themselves. The futon cover, in the instant case, is not a component of a chair or seat but rather a decorative addition or an item used to protect the futon. The exemplars listed in the ENs to heading 9401, HTSUSA, are united by the fact that they are essential parts of seats as opposed to serving a primarily decorative or protective function, like the subject merchandise. The futon cover, then, is not "ejusdem generis" or "of the same kind" of merchandise as the exemplars listed in the ENs to heading 9401, HTSUSA. Accordingly, the futon cover is not properly classifiable under heading 9401, as a part of a seat. See HQ 084323, dated July 20, 1989 (slipcovers for cushions, chairs and other types of furniture imported without the cushions cannot be considered parts of seats under heading 9401, HTSUSA).

In *Bauerhin Technologies Limited Partnership v. United States*, 110 F.3d 774, 1997 U.S. App. LEXIS 6214, (CAFC 1997), the Court addressed the issue of whether or not a canopy designed to fit over a child automobile safety seat which was imported separately and sold as part of the seat to which it was attached was "part" of the child safety seat for classification purposes. The *Bauerhin* Court reasoned that because the carseat canopy was dedicated for use with a carseat, it was properly considered a "part" under the HTSUSA.

In *Bauerhin*, the canopies that were classified as **parts** of car seats were specially designed to fit over child automobile safety seats. **[Emphasis added]**. Despite the fact that they were imported separately from the seats with which they were to be used, the canopies were nevertheless packaged and sold together with the seats as a single unit. In contrast, futon covers of the type described in NY C81111 are generally not sold as parts of the futons with which they are used. The futon covers are sold separate from the futon cushions and may be used with various futons. While the canopy was designed to fit a particular car seat, the futon covers could be used with many futons. Thus, we do not find that the *Bauerhin* rationale extends to the instant merchandise.

Having precluded classification under heading 9401, the next consideration is to determine under which heading of Chapter 63 the subject merchandise is classifiable. Under Chapter 63, the competing headings for the futon cover are heading 6302, HTSUSA, which provides for *inter alia*, bed linen or heading 6304, HTSUSA, which provides for other textile furnishing articles, excluding those of heading 9404.

#### Heading 6302

Heading 6302, HTSUSA, provides for *inter alia*, bed linen. The ENs for heading 6302, HTSUSA, state that bed linen includes, e.g. sheets, pillow cases, bolster cases, eiderdown cases and mattress covers.

A mattress cover is generally used to protect a mattress from dirt and add comfort for the sleeper. The instant futon cover may incidentally protect the futon cushion from dirt and provide additional comfort for the sleeper, yet it is significantly distinguishable from a traditional mattress cover which serves such a purpose. While the instant futon cover may be covered by another cover, many consumers would use it as part of their décor without additional covering. In contrast, a typical mattress cover is white and made of a relatively thin material; it is generally not meant to be used for a decorative purpose or to be seen by houseguests. Accordingly, the instant futon cover is not *ejusdem generis* with the exemplars listed in the ENs to heading 6302, HTSUSA.

#### Heading 6304

Having precluded classification in Heading 6302, HTSUSA, we must now examine whether the futon cover is properly classified in Heading 6304, HTSUSA. Heading 6304, HTSUSA, provides for other furnishing articles, excluding those of heading 9404, HTSUSA. Heading 9404, HTSUSA, provides for mattress supports; articles of bedding and similar furnishing. The ENs to heading 9404, HTSUSA state that the heading specifically covers articles of bedding and similar furnishing which are “sprung or stuffed or internally fitted with any material.” As this futon cover is not “stuffed or filled,” it is precluded from classification in heading 9404, HTSUSA.

The ENs to heading 6304 provide that the heading covers *inter alia* furnishing articles of textile materials including bedspreads \* \* \* (but not including bed coverings of heading 9404), cushion covers and loose covers for furniture. The futon cover at issue is similar in function to a cushion cover. That is, it is sewn on three sides with one side open for the insertion of a cushion. In addition, the instant futon cover may be removed for laundering or in accordance with a change in décor. The instant futon cover, moreover, conforms to the shape of the futon cushion as most cushion covers conform to the shape of the cushion covered. See HQ 951528, dated August 14, 1992; HQ 084324, dated July 20, 1989. Accordingly, the instant merchandise is *ejusdem generis* with the exemplars listed in the ENs to heading 6304 and is properly classified in heading 6304, HTSUSA.

This holding is consistent with other Customs rulings where slipcovers have been classified under heading 6304, HTSUSA. See HQ 084323, dated July 20, 1989; NY B84450, dated May 12, 1997. This holding is also consistent with rulings where other covers for seats have been classified under heading 6304. See HQ 951528, dated August 14, 1992 (cushion cover for an infant carseat is classified in heading 6304); HQ 085885, dated January 23, 1990 (infant car seat covers are more specifically provided for as “like” furniture slipcovers than as parts of cushions and are therefore properly classified in heading 6304, HTSUSA).

Having established that the proper heading for the futon cover is heading 6304 HTSUSA, classification must then be made at the appropriate subheading level. Note 2(A) to Section XI of the HTSUSA provides in pertinent part that, “Goods classifiable in Chapters 50 to 55 or in heading No. 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material.” Subheading Note 2(A) to Section XI states that “Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of Chapters 50 to 55 consisting of the same textile materials.” Accordingly, because the futon cover is composed of 55 percent cotton and 45 percent polyester woven fabric, it is properly classifiable under subheading 6304.92.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton.”

*Holding:*

The futon cover composed of 55 percent cotton and 45 percent polyester woven fabric is properly classified in subheading 6304.92.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton." The general column one rate of duty is 6.6 percent *ad valorem*. The textile quota category applicable to this provision is 369.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest your client check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service, which is updated weekly and is available for inspection at the local Customs office.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you client should contact the local Customs office prior to importing the merchandise to determine the current applicability of any import restraints or requirements.

JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

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[ATTACHMENT G]

DEPARTMENT OF THE TREASURY  
U.S. CUSTOMS SERVICE,  
*Washington, DC.*

CLA-2 RR:CR:TE 965229 BAS  
Category: Classification  
Tariff No. 6304.92.0000

SHERYL DESJARDINS  
EMERY CUSTOMS BROKERS  
1200 E. Northwest Hwy #155  
Grapevine, TX 76051

Re: Revocation of NY 805667, January 11, 1995; Classification of a futon cover.

DEAR MS. DESJARDINS:

This is in reference to New York Ruling Letter (NY) 805667 issued to you on January 11, 1995, in response to your letter of January 4, 1995, to the Director, Customs National Commodity Specialist Division in New York, on behalf of Harlee International, requesting a ruling on the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a futon cover.

In NY 805667, dated January 11, 1995, a futon cover was classified in subheading 6302.31.9050, HTSUS, which provides for bed linen, table linen, toilet linen and kitchen linen: Other bed linen: Of cotton: Other: Not napped: Other: We have now had occasion to review that decision and found it to be in error.

*Facts:*

The merchandise under consideration is a futon mattress cover made of 51 percent cotton and 49 percent polyester woven fabric. The article contains two zippers beginning at one of the narrow ends of the cover, and continuing down three quarters the length of each long side. It measures approximately 54 x 75 inches and encloses up to a 6 inch thick futon mattress. The sample you submitted was hunter green.

*Issue:*

Whether the futon cover is properly classifiable in heading 9401, HTSUSA, as parts of seats; heading 6302, HTSUSA, as bed linen; or heading 6304, HTSUSA, as an other furnishing article.

*Law and Analysis:*

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The futon cover is potentially classifiable in the following three HTSUSA headings: heading 9401, HTSUSA, as parts of seats; heading 6302, HTSUSA, as bed linen, or heading 6304, HTSUSA, as an other furnishing article.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

*Heading 9401*

Heading 9401, HTSUSA, includes "Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof". The ENs to heading 9401, HTSUSA, state that the heading covers *inter alia* couches, settees, sofas, ottomans and the like. Concerning parts, the ENs state that the heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not upholstered with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.

Backs, bottoms, arm-rests and spiral springs are all components of the seats themselves. The futon cover, in the instant case, is not a component of a chair or seat but rather a decorative addition or an item used to protect the futon. The exemplars listed in the ENs to heading 9401, HTSUSA, are united by the fact that they are essential parts of seats as opposed to serving a primarily decorative or protective function, like the subject merchandise. The futon cover, then, is not "*ejusdem generis*" or "of the same kind" of merchandise as the exemplars listed in the ENs to heading 9401, HTSUSA. Accordingly, the futon cover is not properly classifiable under heading 9401, as a part of a seat. See HQ 084323, dated July 20, 1989 (slipcovers for cushions, chairs and other types of furniture imported without the cushions cannot be considered parts of seats under heading 9401, HTSUSA).

In *Bauerhin Technologies Limited Partnership v. United States*, 110 F.3d 774, 1997 U.S. App. LEXIS 6214, (CAFC 1997), the Court addressed the issue of whether or not a canopy designed to fit over a child automobile safety seat which was imported separately and sold as part of the seat to which it was attached was "part" of the child safety seat for classification purposes. The *Bauerhin* Court reasoned that because the carseat canopy was dedicated for use with a carseat, it was properly considered a "part" under the HTSUSA.

In *Bauerhin*, the canopies that were classified as **parts** of car seats were specially designed to fit over child automobile safety seats. [**Emphasis added**]. Despite the fact that they were imported separately from the seats with which they were to be used, the canopies were nevertheless packaged and sold together with the seats as a single unit. In contrast, futon covers of the type described in NY 805667, are generally not sold as parts of the futons with which they are used. The futon covers are typically sold separate from the futon cushions and are to be used with various futons. While the canopy was designed to fit a particular car seat, the futon covers at issue may be used with many futons. Thus, we do not find the *Bauerhin* rationale extends to the instant merchandise.

Having precluded classification under heading 9401, the next consideration is to determine under which heading of Chapter 63 the subject merchandise is classifiable. Under Chapter 63, the competing headings for the futon mattress cover are heading 6302, HTSUSA, which provides for *inter alia*, bed linen or heading 6304, HTSUSA, which provides for other textile furnishing articles, excluding those of heading 9404.

*Heading 6302*

Heading 6302, HTSUSA, provides for *inter alia*, bed linen. The ENs for heading 6302, HTSUSA, state that bed linen includes, e.g. sheets, pillow cases, bolster cases, eiderdown cases and mattress covers.

A mattress cover is generally used to protect a mattress from dirt and add comfort for the sleeper. The instant futon cover may incidentally protect the futon cushion from dirt and provide additional comfort for the sleeper, yet it is significantly distinguishable from a

traditional mattress cover which serves such a purpose. While the instant futon cover may be covered by another cover, many consumers would use it as part of their décor without additional covering. In contrast, a typical mattress cover is white and made of a relatively thin material; it is generally not meant to be used for a decorative purpose or to be seen by houseguests. Accordingly, the instant futon cover is not *ejusdem generis* with the exemplars listed in the ENs to heading 6302, HTSUSA.

#### Heading 6304

Having precluded classification in Heading 6302, HTSUSA, we must now examine whether the futon cover is properly classified in Heading 6304, HTSUSA. Heading 6304, HTSUSA, provides for other furnishing articles, excluding those of heading 9404, HTSUSA. Heading 9404, HTSUSA, provides for mattress supports; articles of bedding and similar furnishing. The ENs to heading 9404, HTSUSA state that the heading specifically covers articles of bedding and similar furnishing which are “sprung or stuffed or internally fitted with any material.” As this futon cover is not “stuffed or filled,” it is precluded from classification in heading 9404, HTSUSA.

The ENs to heading 6304 provide that the heading covers *inter alia* furnishing articles of textile materials including bedspreads \* \* \* (but not including bed coverings of heading 9404), cushion covers and loose covers for furniture. The futon slipcover at issue is similar in function to a cushion cover. That is, it contains two zippers beginning at one of the narrow ends of the cover and continuing down three quarters the length of each long side. The zippered openings allow for the insertion of a cushion. In addition, the instant futon cover may be removed for laundering or in accordance with a change in décor. The instant futon cover, moreover, conforms to the shape of the futon cushion as most cushion covers conform to the shape of the cushion covered. See HQ 951528, dated August 14, 1992; HQ 084324, dated July 20, 1989. Accordingly, the instant merchandise is *ejusdem generis* with the exemplars listed in the ENs to heading 6304 and is properly classified in heading 6304, HTSUSA.

This holding is consistent with other Customs rulings where slipcovers have been classified under heading 6304, HTSUSA. See HQ 084323, dated July 20, 1989; NY B84450, dated May 12, 1997. This holding is also consistent with rulings where other covers for seats have been classified under heading 6304. See HQ 951528, dated August 14, 1992 (cushion cover for an infant carseat is classified in heading 6304); HQ 085885, dated January 23, 1990 (infant car seat covers are more specifically provided for as “like” furniture slipcovers than as parts of cushions and are therefore properly classified in heading 6304, HTSUSA).

Having established that the proper heading for the futon cover is heading 6304 HTSUSA, classification must then be made at the appropriate subheading level. Note 2(A) to Section XI of the HTSUSA provides in pertinent part that, “Goods classifiable in Chapters 50 to 55 or in heading No. 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material.” Subheading Note 2(A) to Section XI states that “Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of Chapters 50 to 55 consisting of the same textile materials.” Accordingly, because the futon cover is composed of 51 percent cotton and 49 percent polyester woven fabric, it is properly classifiable under subheading 6304.92.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton.”

#### Holding:

The futon cover composed of 51 percent cotton and 49 percent polyester woven fabric is properly classified in subheading 6304.92.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton.” The general column one rate of duty is 6.6 percent *ad valorem*. The textile quota category applicable to this provision is 369.

The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest your client check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service which is

updated weekly and is available for inspection at your local Customs office. The *Status Report on Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Service Website at [www.customs.gov](http://www.customs.gov).

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, your client should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,  
Director,  
Commercial Rulings Division.

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[ATTACHMENT H]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
Washington, DC.  
CLA-2 RR:CR:TE 965228 BAS  
Category: Classification  
Tariff No. 6304.92.0000 and 6304.93.0000

EDDY LIN  
IBS RESEARCH, INC.  
2700 Imperial Hwy.  
Bldg. G  
Brea, CA 92621

Re: Revocation of NY 804095, November 23, 1994; Classification of a futon cover.

DEAR MR. LIN:

This is in reference to New York Ruling Letter (NY) 804095 issued to you on November 23, 1994, in response to your letter of November 14, 1994, to the Director, Customs National Commodity Specialist Division in New York, on behalf of IBS Research, Inc. requesting a ruling on the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of a futon cover.

In NY 804095, dated November 23, 1994, a printed futon cover made of 100 percent cotton woven fabric was classified in subheading 6302.21.2090, HTSUSA, which provided for "Bed linen, table linen, toilet linen and kitchen linen: other bed linen, printed: Of cotton: Other: Other, other." Futon covers of either 100 percent polyester or 50-50 poly/cotton blended fabric were classified in subheading 6302.22.2030, HTSUSA, which provided for "Bed linen, table linen, toilet linen and kitchen linen: Other bed linen, printed: Of man-made fibers: Other, Other." We have now had occasion to review that decision and found it to be in error.

*Facts:*

The merchandise under consideration, which you referred to as a sofa cover, is a printed cover for a full size futon mattress. The cover is made from either 100 percent cotton woven fabric, 100 percent polyester woven fabric, or blended woven fabric composed of 50 percent cotton and 50 percent polyester. A zippered opening extends around three sides of the cover. It measures approximately 54 x 75 inches and will enclose a 4 inch thick mattress.

*Issue:*

Whether the futon cover is properly classifiable in heading 9401, HTSUSA, as parts of seats; heading 6302, HTSUSA, as bed linen; or heading 6304, HTSUSA, as an other furnishing article.

*Law and Analysis:*

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined ac-

ording to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

The futon cover is potentially classifiable in the following three HTSUSA headings: heading 9401, HTSUSA, as parts of seats, heading 6302, HTSUSA as bed linen or heading 6304, HTSUSA, as an other furnishing article.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

#### Heading 9401

Heading 9401, HTSUSA, provides for “Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof.” The ENs to heading 9401, HTSUSA, state that the heading covers *inter alia* couches, settees, sofas, ottomans and the like. Concerning parts, the ENs state that the heading also covers identifiable parts of chairs or other seats, such as backs, bottoms and arm-rests (whether or not upholstered with straw or cane, stuffed or sprung) and spiral springs assembled for seat upholstery.

Backs, bottoms, arm-rests and spiral springs are all components of the seats themselves. The futon cover, in the instant case, is not a component of a chair or seat but rather a decorative addition or an item used to protect the futon. The exemplars listed in the ENs to heading 9401, HTSUSA, are united by the fact that they are essential parts of seats as opposed to serving a primarily decorative or protective function, like the subject merchandise. The futon cover, then, is not “*eiusdem generis*” or “of the same kind” of merchandise as the exemplars listed in the ENs to heading 9401, HTSUSA. Accordingly, the futon cover is not properly classifiable under heading 9401, as a part of a seat. See HQ 084323, dated July 20, 1989 (slipcovers for cushions, chairs and other types of furniture imported without the cushions cannot be considered parts of seats under heading 9401, HTSUSA).

In *Bauerhin Technologies Limited Partnership v. United States*, 110 F.3d 774, 1997 U.S. App. LEXIS 6214, (CAFC 1997), the Court addressed the issue of whether or not a canopy designed to fit over a child automobile safety seat which was imported separately and sold as part of the seat to which it was attached was “part” of the child safety seat for classification purposes. The *Bauerhin* Court reasoned that because the carseat canopy was dedicated for use with a carseat, it was properly considered a “part” under the HTSUSA.

In *Bauerhin*, the canopies that were classified as **parts** of car seats were specially designed to fit over child automobile safety seats. **[Emphasis added]**. Despite the fact that they were imported separately from the seats with which they were to be used, the canopies were nevertheless packaged and sold together with the seats as a single unit. In contrast, futon covers of the type described in NY 804095 are generally not sold as parts of the futons with which they are used. The futon covers are sold separate from the futon cushions and may be used with various futons. While the canopy was designed to fit a particular car seat, the futon covers at issue may be used with many futons. Thus, we do not find that the *Bauerhin* rationale extends to the instant merchandise.

Having precluded classification under heading 9401, the next consideration is to determine under which heading of Chapter 63 the subject merchandise is classifiable. Under Chapter 63, the competing headings for the futon mattress cover are heading 6302, HTSUSA, which provides for *inter alia*, bed linen or heading 6304, HTSUSA, which provides for other textile furnishing articles, excluding those of heading 9404.

#### Heading 6302

Heading 6302, HTSUSA, provides for *inter alia*, bed linen. The ENs for heading 6302, HTSUSA, state that bed linen includes, e.g. sheets, pillow cases, bolster cases, eiderdown cases and mattress covers.

A mattress cover is generally used to protect a mattress from dirt and add comfort for the sleeper. While the instant futon cover may incidentally protect the futon cushion from dirt and provide additional comfort for the sleeper, it is significantly distinguishable from a traditional mattress cover which serves such a purpose. A typical mattress cover is usually beige or white and made of a relatively thin material. A mattress cover is generally not meant to be used for a decorative purpose and is usually not seen by houseguests. In con-

trast, a consumer would likely select the instant futon cover because of its print and its decorative value. Accordingly, the instant futon slipcover is not *ejusdem generis* with the exemplars listed in the ENs to heading 6302, HTSUSA.

#### Heading 6304

Having precluded classification in Heading 6302, HTSUSA, we must now examine whether the futon cover is properly classified in Heading 6304, HTSUSA. Heading 6304, HTSUSA, provides for other furnishing articles, excluding those of heading 9404, HTSUSA. Heading 9404, HTSUSA, provides for mattress supports; articles of bedding and similar furnishing. The ENs to heading 9404, HTSUSA state that the heading specifically covers articles of bedding and similar furnishing which are “sprung or stuffed or internally fitted with any material.” As this futon cover is not “stuffed or filled,” it is precluded from classification in heading 9404, HTSUSA.

The ENs to heading 6304 provide that the heading covers *inter alia* furnishing articles of textile materials including bedspreads \* \* \* (but not including bed coverings of heading 9404), cushion covers and loose covers for furniture. The futon cover at issue is similar in function to a cushion cover. That is, it is sewn on three sides with one side open for the insertion of a cushion. In addition, the instant futon cover may be removed for laundering or in accordance with a change in décor. The instant futon cover, moreover, conforms to the shape of the futon cushion as most cushion covers conform to the shape of the cushion covered. See HQ 951528, dated August 14, 1992; HQ 084324, dated July 20, 1989. Accordingly, the instant merchandise is *ejusdem generis* with the exemplars listed in the ENs to heading 6304 and is properly classified in heading 6304, HTSUSA.

This holding is consistent with other Customs rulings where slipcovers have been classified under heading 6304, HTSUSA. See HQ 084323, dated July 20, 1989; NY B84450, dated May 12, 1997. This holding is also consistent with rulings where other covers for seats have been classified under heading 6304. See HQ 951528, dated August 14, 1992 (cushion cover for an infant carseat is classified in heading 6304); HQ 085885, dated January 23, 1990 (infant car seat covers are more specifically provided for as “like” furniture slipcovers than as parts of cushions and are therefore properly classified in heading 6304, HTSUSA).

Having established that the proper heading for the futon cover is heading 6304 HTSUSA, classification must then be made at the appropriate subheading level. The 100 percent cotton futon cover is properly classified under subheading 6304.92.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton.” The 100 percent polyester woven fabric futon cover is properly classified under subheading 6304.93.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of synthetic fibers.”

The futon cover composed of 50 percent cotton and 50 percent polyester would be classified in accordance with Note 2(A) to Section XI of the HTSUSA which provides in pertinent part that, “Goods classifiable in Chapters 50 to 55 or in heading No. 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material. When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.” Subheading Note 2(A) to Section XI states that “Products of Chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of Chapters 50 to 55 consisting of the same textile materials.” Accordingly, because the futon cover is composed of 50 percent cotton and 50 percent polyester woven fabric, it is properly classifiable under subheading 6304.93.0000, HTSUSA, which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of synthetic fibers.”

#### Holding:

The 100 percent cotton futon cover is properly classified under subheading 6304.92.0000, HTSUSA which provides for “Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of cotton.” The general column one rate of duty is 6.6 percent *ad valorem*. The textile quota category applicable to this provision is 369. The 100 percent polyester woven fabric futon cover is properly classified under sub-



heading 6304.93.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of synthetic fibers." The general column one rate of duty is 9.7 percent *ad valorem*. The textile quota category applicable to this provision is 666.

The futon cover composed of 50 percent cotton and 50 percent polyester fabric is properly classified in subheading 6304.93.0000, HTSUSA, which provides for "Other furnishing articles, excluding those of heading 9404: Other: Not knitted or crocheted, of synthetic fibers." The general column one rate of duty is 9.7 percent *ad valorem*. The textile quota category applicable to this provision is 666.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest your client check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service, which is updated weekly and is available for inspection at your local Customs office. The *Status Report on Current Import Quotas (Restraint Levels)* is also available on the Customs Electronic Bulletin Board (CEBB) which can be found on the U.S. Customs Service Website at [www.customs.gov](http://www.customs.gov).

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, your client should contact the local Customs office prior to importing the merchandise to determine the current applicability of any import restraints or requirements.

JOHN DURANT,  
*Director,*  
*Commercial Rulings Division.*

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## REVOCATION OF RULING LETTER AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF "Z" CHIPS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of ruling letter and treatment relating to tariff classification of "Z" chips.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling letter pertaining to the tariff classification of "Z" chips under the Harmonized Tariff Schedule of the United States ("HTSUS"), and any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed actions was published in the CUSTOMS BULLETIN on October 31, 2001. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the CUSTOMS BULLETIN on October 31, 2001, proposing to revoke NY D87688, dated February 25, 1999, a ruling letter pertaining to the tariff classification of "Z" chips. No comments were received in response to the notice.

As stated in the proposed notice, this revocation will cover any rulings on the subject merchandise which may exist but which have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking NY D87688 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 965098. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical transactions. HQ 965098 is set forth as the attachment to this document.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: December 11, 2001.

MARVIN AMERNICK,  
(for John Durant, Director,  
Commercial Rulings Division.)

[Attachment]

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[ATTACHMENT]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC, December 11, 2001.*  
CLA-2 RR:CR:GC 965098 GOB  
Category: Classification  
Tariff No. 8534.00.00

MS. SHARON M. BURNS  
CUSTOMS SPECIALIST  
AVX KYOCERA  
2875 Highway 501  
Conway, SC 29526

Re: Revocation of NY D87688; "Z" chip.

DEAR MS. BURNS:

This is in response to your letter of May 22, 2001, in which you request reconsideration of NY D87688, issued to you on February 25, 1999, by the Director, Customs National Commodity Specialist Division, New York, regarding the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of a ceramic substrate that contains capacitors and resistors. We have reviewed the classification set forth in NY D87688 and have determined that it is incorrect. This ruling sets forth the correct classification.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of NY D87688, as described below, was published in the CUSTOMS BULLETIN on October 31, 2001. No comments were received in response to the notice.

*Facts:*

In D87688, the "Z" chip was described as follows: "\*\*\* a capacitor/resistor device which has both the capacitor and resistor devices co-fired into the same package. It is designed to function as an impedance matching device."

In your letter of May 22, 2001, you state in pertinent part as follows:

This component is a capacitor and resistor on a ceramic base, as both components are passive, we believe that the correct classification should be 8534.0000 \*\*\* The capac-

itor/resistor is manufactured using a printing process similar to the process used for multilayer ceramic capacitors. The Z chip is a fully integrated RC made with a stack of multiple, closely spaced resistor elements arranged in a multilayer capacitor structure.

Your Internet site provides the following general description of the “Z” chip:

To meet the needs of today’s high speed circuits and reduced power requirements, AVX has developed the “Z” Chip. This impedance matching component, available in a standard 0603 package, breaks the barrier of component density by providing a truly integrated series resistor-capacitor design.

The “Z” Chip enables a board designer to achieve maximum signal integrity by eliminating reflections and reducing DC power consumption.

Another Internet site describes the “Z” chip as follows:

\* \* \* a discrete impedance matching series resistor-capacitor (RC) chip. This device contains the resistor within the chip, and it is one of the few RC chips in an 0603 size. Designed to meet the needs of today’s high-speed, high-power efficient circuits, the chip is suited for line termination applications in products such as laptops and hand-held devices.

The same Internet site quotes a product manager who states as follows:

While the resistor alone is still the prevalent method for matching impedance, the biggest problem with this method is that when the signal line is high, you are drawing continuous DC current. With the “Z” Chip, you get the impedance matching properties of a resistor, but you also get the high DC resistance of the capacitor. The advantage is reduced power consumption and board space savings provided by a volumetrically efficient component.

In NY D87688, Customs determined the “Z” chip to be classified in subheading 8543.89.96, HTSUS, as: “Electrical machines or apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof: \* \* \* Other machines and apparatus: \* \* \* Other: \* \* \* Other: \* \* \* Other: \* \* \* Other.”

*Issue:*

What is the classification under the HTSUS of the “Z” chip?

*Law and Analysis:*

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (“GRI’s”). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI’s may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes (“EN’s”) constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN’s provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89–80.

The HTSUS provisions under consideration are as follows:

8534.00.00	Printed circuits
*	*
*	*
*	*
*	*
*	*
*	*
8543	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this chapter; parts thereof:
	Other machines and apparatus:
8543.89	Other:
	Other:
	Other:
8543.89.96	Other.

Note 4 to Chapter 85, HTSUS, provides in pertinent part as follows:

For the purposes of heading 8534 “*printed circuits*” are circuits obtained by forming on an insulating base, by any printing process (for example, embossing, plating-up, etching) or by the “film circuit” technique, conductor elements, contacts or other printed components (for example, inductances, resistors, capacitors) alone or inter-

connected according to a pre-established pattern, other than elements which can produce, rectify, modulate or amplify an electrical signal (for example, semiconductor elements).

The term “*printed circuits*” does not cover circuits combined with elements other than those obtained during the printing process, nor does it cover individual, discrete resistors, capacitors or inductances. Printed circuits may, however, be fitted with non-printed connecting elements. [All emphasis in original.]

Information submitted by you (an abstract entitled *Multilayer Cofired RC's for Line Termination* by Ritter, Templeton, and Smith of the AVX Advanced Product and Technology Center) describes the “Z” chip in pertinent part as follows:

Cofirable material systems are comprised of dielectrics, resistors and conductors that are optimized to densify at similar firing temperatures with nearly matched shrinkage. These material systems allow the design of multilayer devices wherein the capacitor and resistor elements are fully integrated in the structure of the device. Unlike ceramic chip-carrier packages with single layer buried resistors interconnected with buried metallic conductors—currently the most common usage of these cofirable material systems—the fully integrated RC is made with a stack of multiple, closely spaced resistor elements arranged in a multilayer capacitor structure. [Diagram omitted.]

The device resistance comes from the parallel resistance of the individual layers, and the device capacitance arises from capacitance coupling of the planar resistor elements that are terminated in the multilayer capacitor structure. In this structure, the resistor layers themselves form the electrodes of a parallel plate capacitor. We have coined the term Z Chip™ for this device to denote its application for impedance matching. Although the construction of this cofired RC is simple, the device is electrically complex because the capacitance and resistance are physically distributed throughout the entire device.

After a careful consideration of this issue, we find that the “Z” chip meets the definition of printed circuit in Note 4 to Chapter 85, HTSUS. The capacitors and resistors are passive components that were formed on an insulating base by a printing process. Accordingly, the “Z” chips are classified in subheading 8534.00.00, HTSUS, as: “Printed circuits.”

This determination is consistent with our determination in HQ 089376 dated September 11, 1991, where we classified a resistor network in subheading 8534.00.00, HTSUS. The resistor network was described as: “\* \* \* a ceramic circuit substrate with printed conductors and resistors that forms a network which was applied by a printing process.”

*Holding:*

The “Z” chips are classified in subheading 8534.00.00, HTSUS, as: “Printed circuits.”

*Effect on Other Rulings:*

NY D87688 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,  
(for John Durant, Director,  
Commercial Rulings Division.)

## REVOCATION OF RULING LETTER AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF RISER SLOT BOARDS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of ruling letter and treatment relating to tariff classification of riser slot boards.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling letter pertaining to the tariff classification of riser slot boards under the Harmonized Tariff Schedule of the United States ("HTSUS"), and any treatment previously accorded by Customs to substantially identical transactions. Notice of the proposed actions was published in the CUSTOMS BULLETIN on November 7, 2001. No comments were received in response to the notice.

EFFECTIVE DATE: This action is effective for merchandise entered or withdrawn from warehouse for consumption on or after February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, General Classification Branch, (202) 927-2388.

### SUPPLEMENTARY INFORMATION:

#### BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(1)), a notice was published in the CUSTOMS BULLETIN on

November 7, 2001, proposing to revoke HQ 957719, dated July 26, 1995, a ruling letter pertaining to the tariff classification of riser slot boards. No comments were received in response to the notice.

As stated in the proposed notice, this revocation will cover any rulings on the subject merchandise which may exist but which have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should have advised Customs during the comment period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or its agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

Pursuant to 19 U.S.C. 1625(c)(1), Customs is revoking HQ 957719 and any other ruling not specifically identified in order to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 964400. Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is revoking any treatment previously accorded by the Customs Service to substantially identical transactions. HQ 964400 is set forth as the attachment to this document.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after publication in the CUSTOMS BULLETIN.

Dated: December 11, 2001.

MARVIN AMERNICK,  
(for John Durant, Director,  
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,  
U.S. CUSTOMS SERVICE,  
*Washington, DC, December 11, 2001.*  
CLA-2 RR:CR:GC 964400 GOB  
Category: Classification  
Tariff No. 8537.10.90

ACER AMERICA CORPORATION  
ATTN.: MIKE BOUCHER  
2641 Orchard Parkway  
San Jose, CA 95134

Re: Riser Slot Boards; HQ 957719 revoked.

DEAR MR. BOUCHER:

This letter is with respect to HQ 957719, issued to the District Director of Customs, San Francisco, on July 26, 1995, regarding Protest 2809-94-101505 which you filed with respect to the classification, under the Harmonized Tariff Schedule of the United States ("HTSUS"), of certain ISA riser slot boards. We have reviewed the classification decision in HQ 957719 and have determined that it is incorrect. This ruling sets forth the correct classification. This ruling does not affect the disposition of Protest 2809-94-101505, which is final.

Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of HQ 957719, as described below, was published in the CUSTOMS BULLETIN on November 7, 2001. No comments were received in response to the notice.

*Facts:*

In HQ 957719, the riser slot boards were described as follows:

The subject merchandise is the ISA Riser slot boards, model PZ250DB ("Riser slot boards"), which consists of capacitors, resistors, and slot boards mounted on a printed circuit board. The Riser slot boards plug into motherboards of automatic data processing (ADP) units to provide slots for expansion boards (memory, fax/modem, game cards, etc.), which are inserted to upgrade system performance or add capability. According to the information provided, the capacitors and resistors were produced by methods other than a printing process or "film circuit" technique.

In HQ 957719 we classified the ISA Riser slot boards in subheading 8473.30.50, HTSUS, as: "Parts and accessories \* \* \* suitable for use solely or principally with machines of headings 8469 to 8472: \* \* \* Parts and accessories of the machines of heading 8471: Not incorporating a cathode-ray tube: \* \* \* Other."

*Issue:*

What is the tariff classification of riser slot boards?

*Law and Analysis:*

Classification under the HTSUS is made in accordance with the General Rules of Interpretation ("GRI's"). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI's may then be applied.

The Harmonized Commodity Description and Coding System Explanatory Notes ("EN's") constitute the official interpretation of the Harmonized System at the international level. While neither legally binding nor dispositive, the EN's provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. See T.D. 89-80.

The HTSUS provisions under consideration are as follows:

8473	Parts and accessories * * * suitable for use solely or principally with machines of headings 8469 to 8472:
8473.30	Parts and accessories of the machines of heading 8471: Not incorporating a cathode-ray tube:



8473.30.50	Other
*	*
8537	Boards, panels, consoles, desks, cabinets, and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517:
8537.10	For a voltage not exceeding 1,000 V:
8537.10.90	Other.

In HQ 957719, we stated that “[b]ecause the Riser slot boards contain discrete components, classification under either heading 8536 or 8537, HTSUS, is precluded.” We now believe that the fact that the riser slot boards contain discrete components is not a basis for excluding them from heading 8536 or 8537, HTSUS.

Note 2(a) to Section XVI, HTSUS, provides as follows:

Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) Parts which are goods included in any of the headings of chapters 84 and 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

The General Explanatory Notes to Section XVI ((II) Parts) provide in pertinent part:

The above rules do **not** apply to parts which in themselves constitute an article covered by a heading of this section (**other than** headings 84.85 and 85.48); these are in all cases classified in their own appropriate heading even if specially designed to work as part of a specific machine. This applies in particular to:

*	*	*	*	*	*	*
(13) Boards, panels, consoles, desks, cabinets and other apparatus for electric control or the distribution of electricity (heading 85.37). [Emphasis in original.]						

In NY 880138 dated November 19, 1992, Customs classified the following goods in subheading 8537.10.00, HTSUS:

\* \* \* passive backplane boards that operate basically as a connector between other boards inside of an industrial chassis. Once installed into a chassis, other boards are plugged into its connector slots, and the passive backplane allows signals to travel from one board to another. The board does not contain a CPU or other discrete components.

Pursuant to Note 2(a) to Section XVI, if the riser slot boards are a good included in any of the headings of Section 84 or 85 (with certain exceptions), they are to be classified in that heading. Therefore, if the riser slot boards are a good of heading 8537, HTSUS, they are classifiable in that heading, and not in heading 8473 as parts and accessories suitable for use solely or principally with machines of headings 8469 to 8472. After a careful consideration, we find that the riser slot boards are boards equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity. The discrete components contribute to these functions. Accordingly, they are classified in subheading 8537.10.90, HTSUS, as: “Boards, panels, consoles, desks, cabinets, and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517: For a voltage not exceeding 1,000 V: \* \* \* Other.”

*Holding:*

The Riser slot boards are classified in subheading 8537.10.90, HTSUS, as: “Boards, panels, consoles, desks, cabinets, and other bases, equipped with two or more apparatus of heading 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of chapter 90, and numerical control apparatus, other than switching apparatus of heading 8517: For a voltage not exceeding 1,000 V: \* \* \* Other.”

*Effect on Other Rulings:*

HQ 957719 is revoked. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,  
(for John Durant, Director,  
Commercial Rulings Division.)

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PROPOSED REVOCATION OR MODIFICATION OF RULING  
LETTERS AND TREATMENT RELATING TO THE COUNTRY  
OF ORIGIN DETERMINATION OF PIPE FITTINGS AND  
FLANGES

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Notice of proposed revocation or modification of ruling letters and treatment relating to the country of origin of pipe fittings and flanges; extension of comment period.

SUMMARY: This notice provides an additional 32 days for interested members of the public to submit comments on the proposed revocation or modification of ruling letters and treatment relating to the country of origin of pipe fittings and flanges. The proposed revocation/modification was published in the "CUSTOMS BULLETIN" on November 21, 2001, and the comment period was scheduled to expire on December 21, 2001.

DATE: Comments must be received on or before January 22, 2002.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations & Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Monika Brenner, Special Classification & Marking Branch, (202) 927-1254.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Implementation Act, Pub. L. 103-82, 187 Stat. 2057, 2186, (1993), Customs published a notice on November 21, 2001, in the "CUSTOMS BULLETIN", Vol. 35, No. 47, advising interested parties that it intends to revoke or modify certain rulings (as applicable) pertaining to the country of origin determinations of pipe fittings and flanges. The document invited the public to comment on the proposal and comments were requested on or before December 21, 2001.

Customs has received a request to extend the comment period for an additional 30 days from Mayer, Brown & Platt, on behalf of a number of small U.S. companies.

Customs has determined to grant the request for the extension. Accordingly, the period of time for the submission of comments is being extended 32 days. Comments are now due on or before January 22, 2002.

Dated: December 12, 2001.

MYLES HARMON,  
(for John Durant, Director,  
Commercial Rulings Division.)